Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C 20554

In the Matter of	)	
	)	
Examination of Current Policy	)	
Concerning the Treatment of	)	GC Docket No. 96-55
Confidential Information	)	
Submitted to the Commission	)	

COMMENTS OF SPRINT CORPORATION

Sprint Corporation, ("Sprint") submits its Comments in response to the Commission's March 25, 1996, Notice of Inquiry and Notice of Proposed Rulemaking ("NOINPRM") in the above captioned docket.

I. Introduction

The Commission issued its NOINPRM in this matter to solicit general comments regarding an evaluation of its practices and policies with respect to the treatment of competitively sensitive information that has been provided to it by regulated entities. The Commission has also requested input regarding issues that arise in this context in specific types of Commission proceedings. In making this request the Commission recognizes that in recent years there has been an increased awareness by carriers of the potential competitive impact of such filings, with a corresponding increase in requests to the Commission for confidential treatment. The Commission is equally concerned with the potential increased administrative burdens which may result from such confidential filings and fairness to the public that has an interest in such proceedings when decisions could be made upon information not generally available.

Generally, Sprint submits that the current rules of the Commission in this regard are adequate at this time without significant modification and should continue to be utilized.

However, Sprint submits the usefulness of these rules may[1] be severely limited in the future when fully competitive telecommunications markets have developed. Sprint submits these comments in response to the Commission's request for input regarding tariff[2] proceedings under Section 203 of the Communications Act, however, they may be applicable to other areas of the NOINPRM as well.

II. General Background

The Commission's policy has been to avoid disclosure of confidential information except where necessary for the effective performance of its regulatory duties and to employ protective orders or other remedies where appropriate[3]. Sprint suggests that there should be no lessening of this standard with respect to telecommunications issues in light of the Telecommunications Act of 1996[4] and the Commission should accommodate requests for confidential treatment of information to the extent possible. Although one could argue that in a totally monopolistic setting all information should be made readily available to all interested persons, competition is clearly drawing nearer in all segments of the telecommunications industry. The consequences of disclosure of costing information in this environment may[5] be more critical today than in the past. In addition, as truly competitive markets develop, the standards for receipt and treatment of cost information associated with tariff filings before the Commission may need to become more stringent in order to prevent competitors from gaining an unfair advantage.

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[1] Sprint notes that the Commission's rules were not found wanting as competition came to and flourished in the interexchange market.

[2] NOINPRM, para. 42-45.

[3] NOINPRM, para. 25, 30.

[4] Pub. L. No. 104-104, 110 Stat. 56 (1996), codified at 47 U.S.C. §§ 151 et seq. (the "1996 Act").

[5] See footnote # 1, supra.

Unfortunately, the increased sensitivity to the filing of competitive information by the carriers and other parties comes at a time when the Commission is already facing the burdens of potential budget cuts and increased workloads as the transition to telecommunications deregulation continues. It is not unreasonable to expect that if the level of requests for confidential treatment significantly increased under current practices, the Commission's time and resources would be diverted from other activity to review and determine the appropriateness of such requests. The end result is to create an environment where more of the Commission's time and that of the parties is directed toward confidentiality issues. That time might more appropriately be directed toward dealing with substantive issues.

III. Protective Order or Other Means.

To deal with the increased concerns for confidentiality the Commission should avail itself of the means currently available. This would include a more liberal use of protective agreements when requests for confidentiality are presented

It is not uncommon in today's industry to have competitors or potential competitors enter into discussions or negotiations regarding potential transactions or arrangements between these competing entities. In the course of these discussions a great deal of highly sensitive information may be exchanged in order to properly evaluate the potential of such agreements. The information is exchanged on the strength of a nondisclosure or confidentiality agreement.

In addition, with the implementation of the Telecommunication Act of 1996, competitors are currently entering into discussions for the multitude of issues presented for the implementation local competition. Competitively sensitive information exchanged under these discussions is often again protected by a nondisclosure or confidentiality agreements. To enter into such discussions

and exchange information without such agreements would be considered foolish. Normally, these agreements work fairly well. If information is designated as confidential there is no need to dispute such designation so long as both sides act in good faith.

IV. Specific Application - Tariff Filings

The Commission has requested specific input as to how to resolve a request for confidentiality made in the context of the tariff review process. The Commission suggests, given the statutory time frame for the tariff review process, requiring the carriers to file any confidential information first, independent of the filing of the tariff transmittal.[6] A tariff filing could not be made until the request for confidentiality was resolved

Currently, a tariff transmittal by a dominant carrier contains tariff terms and conditions, demand forecasts for two years, potential price cap support detail, and cost and price floors associated with rate development information. The carrier prepares this information in anticipation of filing a tariff that will become effective within the review period. Requiring carriers to file cost support that would be considered confidential in advance of a full tariff transmittal would essentially mean that a complete tariff filing package would need to be developed much earlier in the process than currently occurs. In addition, there would be no assurance that confidential treatment would be granted and, should such treatment be denied, the carrier would have invested the time and effort to prepare an entire tariff filing that may never be filed if confidential treatment is denied.

Moreover, the new statutory time frame under Section 402(b) of the Telecommunications Act of 1996 provides that, effective one year after enactment, a local exchange carrier may file

[6] NOINPRM, para. 44.

charges, classifications, regulations or practices on a streamlined basis, which shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which they are filed, unless the Commission takes action before the end of the period.[7] Since the current time frame for initial determination of the lawfulness of a tariff transmittal is 120 days, this shortened time frame poses additional burdens for a Commission facing budget cuts and increased workloads as the transition to telecommunications deregulation continues. It is not unreasonable to expect the Commission would need additional time to determine if a request for confidential treatment should be granted. Requiring the filing of confidential data prior to the submission of the tariff transmittal creates an additional burden in the carrier tariff preparation process.

The Commission notes protective orders as one means to aid in accomplishing this objective.[8] Protective orders appear to have limitations; however, they should be considered a viable method to ensure limited release of confidential information to those with a need to know while limiting more widespread disclosure. As competition continues to accelerate, a protective order is a useful tool in the near term to ensure the data integrity needed to protect the interests of the parties involved.

[7] Section 402(b) of the Telecommunications Act of 1996

[8] NOINPRM, para. 25.

VII. Conclusion.

For the reasons stated above, Sprint encourages the Commission to consider a more liberal use of protective agreements as a means of affording some level of proprietary treatment to competitive sensitive information filed by carriers in their tariff filings.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 14th day of June, 1996, sent via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Comments of Sprint Corporation" in the Matter of Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, GC Docket No. 96-55, filed this date with the Acting Secretary, Federal Communications Commission, to the persons on the attached service list.

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